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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM GRANT CROOKS,

Defendant and Appellant.

D074555

(Super. Ct. No. CR56642)

APPEAL from an order of the Superior Court of San Diego County, Sharon B. Majors-Lewis, Judge. Affirmed.

Stephen Hinkle, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Robin Urbanski and Donald W. Ostertag, Deputy Attorneys General, for Plaintiff and Respondent.

William Grant Crooks appeals an order entered after a jury trial extending his involuntary commitment to a state psychiatric hospital pursuant to Penal Code section 1026.5, subdivision (b).¹ Crooks contends that substantial evidence did not support the jury's finding that he represents a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder, and has serious difficulty controlling his dangerous behavior. We affirm.

I

FACTUAL AND PROCEDURAL BACKGROUND

A. The Initial Commitment and Prior Extensions

In 1982, Crooks was found not guilty by reason of insanity (NGI) of vehicular manslaughter (Pen. Code § 192), assault with a deadly weapon (Pen. Code § 245, subd. (a)), and hit and run (Veh. Code, § 20001), after he killed a person with his vehicle during an apparent suicide attempt. As a result, Crooks was committed to the Department of State Hospitals at Patton State Hospital (Patton) pursuant to section Penal Code 1026, which sets forth the procedures for the commitment of persons acquitted of an offense by reason of insanity.

The district attorney obtained two-year extensions of commitment from September 1989 through the present pursuant to section 1026.5, subdivision (b), which provides that a person who has pleaded NGI may be committed beyond the maximum term of

¹ All further statutory references are to the Penal Code unless otherwise noted.

commitment if a jury finds that the person, by reason of a mental disease, defect, or disorder, presently represents a substantial danger of physical harm to others.

B. The Current Extended Commitment Trial

On April 20, 2018, the district attorney petitioned the superior court for another two-year extension of Crooks's civil commitment.

1. The Prosecution Case

The prosecution called three witnesses to testify at Crooks's extended commitment trial: (1) Dr. Greta Herbes, a psychiatrist at Patton who has treated Crooks for two years; (2) Dr. Daniel Brockett, a court-appointed psychiatrist and psychoanalyst who interviewed Crooks on two occasions; and (3) Dr. Maurizio Assandri, a psychologist at Patton who has treated Crooks for two or three years.

Dr. Herbes testified that Crooks has "a long history of severe mental illness," including schizoaffective disorder; bipolar type, which manifests itself through paranoia; delusions; and anger. Dr. Herbes testified that Crooks "is frequently seen talking and gesturing to somebody that is not there." According to Dr. Herbes, Crooks can "get very agitated and angry" because he does not believe he has a mental illness. Dr. Herbes testified that Crooks's refusal to acknowledge his mental illness precludes him from gaining insight into his crimes and the impact his mental illness will have in the future.

On two occasions, Crooks has qualified for the conditional release program (CONREP), which permits a committed patient to be released into a supervised, stepped-down treatment program in the community. Patients qualify for CONREP if they satisfy various criteria, such as acknowledging their mental illness or substance abuse,

participating in group therapy sessions, and utilizing positive coping strategies. Crooks violated the conditions of CONREP both times he participated in the program. During his first round in CONREP, Crooks refused to take his medication, consumed alcohol, and experienced psychotic decompensation. During his second round in CONREP, Crooks absconded and his whereabouts were unknown for four and one-half years. During that period, Crooks made threatening phone calls to the director of CONREP.

Crooks's compliance with his psychotropic medication program has been inconsistent. Dr. Herbes testified that although Crooks has complied with some of his prescriptions, he sometimes refuses medication because he does not feel that he needs it. Among other instances of noncompliance, Crooks refused to take his psychotropic medications when he was incarcerated in jail pending the extended commitment trial.

Apart from one incident in which he spit on a psychiatrist, Crooks has not physically assaulted anyone during his commitment. However, Dr. Herbes testified that violence is uncommon at Patton because it is a "very secure, very structured environment," in which patients' basic needs are satisfied, staff members are trained to de-escalate potentially violent situations, and medication can be administered; therefore, a patient's risk assessment at Patton differs considerably from the risk the patient may pose in an unsupervised setting. Dr. Herbes testified that Crooks's failure to acknowledge his mental illness likely would cause him to quit taking medication if he were to leave Patton, resulting in greater irritability, paranoia, and delusional behavior, which in turn would make it more likely that he would engage in dangerous behavior. Therefore, Dr. Herbes testified that Crooks represents a substantial danger of physical harm to others.

Dr. Brockett, the prosecution's second witness, testified that Crooks has schizoaffective disorder and narcissistic personality disorder, but falsely claims that his symptoms are in "full remission" and, therefore, denies that he suffers from mental illness. According to Dr. Brockett, Crooks is "deflective" and "dishonest"; exhibits a "profound" and "massive" lack of empathy for others, including the person he killed; views himself as a victim; has "very low" self-esteem; and has a "total lack of insight."

During Dr. Brockett's interviews with him, Crooks discussed the circumstances that led up to his controlling offense. According to Dr. Brockett, Crooks informed him that he had been drinking and had experienced delusions in which he believed his friends and parents were conspiring to send him to a mental institution. Crooks attempted suicide, tried to flee after the suicide attempt was unsuccessful, and struck and killed someone with his vehicle, possibly as part of a second suicide attempt.

Dr. Brockett testified that Crooks is "dangerous" because of his lack of empathy and remorse, the likelihood that he will not remain medicated if he is released, and the signs of mental deterioration and impulsivity he has shown when he is unmedicated. In particular, Dr. Brockett testified that Crooks's mental state deteriorated in the six-month interval between his first interview with Crooks (when he was medicated), and his second interview with Crooks (when he was not fully medicated). Dr. Brockett further testified that without medication, Crooks "will act impulsively and repeat the past."

The prosecution's final expert witness, Dr. Assandri, testified that Crooks suffers from schizoaffective disorder and exhibits narcissistic traits and anger, but does not believe he is mentally ill. Dr. Assandri testified that Crooks has informed him that his

medications are "useless," he sometimes refuses medication, and he has skipped group treatment sessions. Like Dr. Herbes, Dr. Assandri testified that Crooks has no record of violent assaults. However, Dr. Assandri testified that Crooks represents a substantial danger of physical harm to others due to his lack of insight and "very high" likelihood that he will stop taking his medication if he is released, which in turn will result in a deterioration of his mental state and an increased risk of harm to others.

2. The Defense Case

The defense called two witnesses to testify at Crooks's extended commitment trial:

- (1) Dr. Judith Meyers, a court-appointed psychologist who met with Crooks twice; and
- (2) Kristine Geniza, a psychiatric mental health nurse practitioner who worked at the jail in which Crooks was incarcerated pending his extended commitment trial.

Dr. Meyers testified that Crooks suffers from schizoaffective disorder, bipolar subtype, which Crooks erroneously believes to be in "remission," and has a history of substance abuse. Dr. Meyers testified that he has very poor insight and has refused medication in the past, and she would not be shocked if he were to refuse medication if released from Patton. However, Crooks presented during his interviews as generally alert, cooperative, and rational in his responses. Dr. Meyers testified that Crooks had a "legitimate" basis for refusing certain of his medications because, according to Crooks, those medications made him "groggy." Crooks denied having auditory hallucinations or delusions, except for the paranoid delusion he experienced before his commitment offense.

Dr. Meyers testified that Crooks does not represent a danger to others in the community. In support of this opinion, Dr. Meyers opined that Crooks does not have a history of active aggression towards others, which she would expect of someone who poses a substantial danger to others. Dr. Meyers testified that Crooks's medication and coping mechanisms control his psychiatric disorder "to a reasonable degree." Further, Dr. Meyers testified that Crooks's age (56 years old) likely would reduce the possibility of him engaging in aggressive action. Finally, Dr. Meyers testified that her opinion was based on the absence of any evidence that Crooks had committed any crimes during the four-and-a-half-year period after he absconded from CONREP.

Kristine Geniza, the defense's second witness, testified about Crooks's medication compliance while he was incarcerated in jail pending his extended commitment trial. Geniza testified that Crooks complied with one of his medications and not two of them. Geniza testified that she did not witness Crooks's mental state worsen during the period in which he was incarcerated. Geniza viewed Crooks as a polite and cooperative individual who expressed linear and logical thoughts.

3. The Jury's Finding

The jury found true the allegation that Crooks satisfied the criteria for extension of civil commitment under section 1026.5, subdivision (b)(1). Accordingly, the superior court entered an order recommitting Crooks to Patton for a period of two years.

II

DISCUSSION

A. *Statutory Scheme*

A defendant who is found NGI may be confined to a state psychiatric hospital for a period as long as the maximum amount of time for which the defendant could have been imprisoned had he or she been found guilty of the charged offense(s).

(§§ 1026, 1026.5, subd. (a)(1).) However, the district attorney may petition the superior court to extend the commitment of a patient if he or she represents a substantial risk of physical harm to others because of a mental disease, defect, or disorder. (§ 1026.5, subd. (b)(2).) Establishing a substantial danger of physical harm to others "requires proof that the person has serious difficulty controlling his dangerous behavior." (*People v. Williams* (2015) 242 Cal.App.4th 861, 872 (*Williams*).) These factors must be proven beyond a reasonable doubt. (§ 1026.5, subd. (b)(7); *Williams*, at p. 872.)

B. *Sufficiency of the Evidence*

Crooks does not dispute the sufficiency of the evidence supporting the jury's finding that he suffers from a mental disease, defect, or disorder. However, he claims that reversal is warranted on grounds that substantial evidence did not support the jury's finding that he represents a substantial danger of physical harm to others by reason of his disease, defect, or disorder. Similarly, Crooks contends that substantial evidence did not establish that he has serious difficulty controlling *dangerous* behavior.

" 'Whether a defendant "by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others" under section 1026.5 is a

question of fact to be resolved with the assistance of expert testimony.' [Citation.] 'In reviewing the sufficiency of evidence to support a section 1026.5 extension, we apply the test used to review a judgment of conviction; therefore, we review the entire record in the light most favorable to the extension order to determine whether any rational trier of fact could have found the requirements of section 1026.5(b)(1) beyond a reasonable doubt.' " (*People v. Crosswhite* (2002) 101 Cal.App.4th 494, 507-508.) "A single psychiatric opinion that a person is dangerous because of a mental disorder constitutes substantial evidence to justify the extension of commitment." (*Williams, supra*, 242 Cal.App.4th at p. 872; see also *People v. Bowers* (2006) 145 Cal.App.4th 870, 879.)

Based on our review of the record, we conclude that ample evidence supported the jury's finding that Crooks represents a substantial risk of physical harm to others due to his mental illnesses and, further, has serious difficulty controlling his dangerous behavior. Two members of Crooks's treatment team (Dr. Herbes and Dr. Assandri) and both court-appointed doctors (Dr. Brockett and Dr. Meyers) testified that Crooks suffers from serious mental illnesses including schizoaffective disorder and narcissistic personality disorder, which Crooks refuses to acknowledge. Further, *all* witnesses testified that Crooks has refused treatment before. Based on these factors, Dr. Herbes, Dr. Brockett, and Dr. Assandri each testified that it is very likely Crooks would refuse medication were he released from Patton. Even Dr. Meyers, a defense witness, testified that she would not be shocked were Crooks to refuse medication upon his release.

The prosecution's witnesses also opined regarding the likely consequences were Crooks to refuse medication in an unsupervised environment (as they all predicted). As

Dr. Herbes explained, Crooks likely would experience greater irritability, paranoia, and grandiose and dangerous behavior. Dr. Assandri opined that Crooks's mental state likely would deteriorate and the riskiness of his behavior would increase. Likewise, Dr. Brockett testified that he believes Crooks's resistance to medication would increase his impulsive behavior and lead him to "repeat the past," which, as noted *ante*, includes the killing of another person. According to Dr. Brockett, consideration of others' safety also would not factor into Crooks's decisionmaking because he "lacks empathy" for others. In Dr. Brockett's words, "He's dangerous. There's no conscious [*sic*]. There's no remorse. There's no empathy." For all these reasons, the prosecution's expert witnesses each testified that Crooks represents a substantial danger of physical harm to others.

The experts' concerns appear to be borne out by past incidences in which Crooks has refused medication in unsupervised settings. While unmedicated, Crooks has experienced intense delusions regarding the motivations of his family and friends, attempted suicide, and killed another person—the underlying offense giving rise to his commitment. Crooks refused medication, abused alcohol, and experienced a decrease in his mental stability during his first round of CONREP as well, which resulted in a revocation of his ability to participate in CONREP. Further, while it is unknown whether Crooks fully complied with his medication or treatment during his second round in CONREP (because he absconded from the program for four and one-half years), it is known that he made "threatening phone calls" to CONREP during this period, violated CONREP's conditions, and again had his ability to participate in CONREP revoked.

Crooks contends that the evidence of dangerousness was insufficient, in part, because there was no evidence that he has engaged in assaultive behavior during his civil commitment, except for one instance in which he spit on a psychiatrist. However, the jury received testimony to this effect from Dr. Meyers and concluded, considering *all* the evidence—not solely the defense's evidence—that it did not create a reasonable doubt as to Crooks's dangerousness and lack of control. It is not our role on appeal to reweigh the totality of the evidence or reevaluate the credibility of the witnesses. (*Williams, supra*, 242 Cal.App.4th at p. 874.) On this basis alone, we reject Crooks's argument.

Further, while a patient's history of violence or nonviolence in a supervised setting may well be one of many relevant factors to consider when assessing the patient's history, it is not dispositive. According to Dr. Herbes, a patient's risk assessment in a supervised and structured environment like Patton is not reflective of how the patient will act in an unsupervised setting. Thus, Crooks's history of nonviolence at Patton does not preclude a jury from finding, for the reasons discussed *ante*, that he represents a substantial danger to others and has serious difficulty controlling his dangerous behavior. (See *People v. Zapisek* (2007) 147 Cal.App.4th 1151, 1167 [substantial evidence supported finding that defendant represented a substantial danger to others, even though he did not engage in acts of physical violence during his hospitalization].)

Crooks also contends that the unintentional nature of his commitment offense (vehicular manslaughter) undermines the jury's finding that he poses a substantial risk of physical harm to others. According to Crooks, his commitment offense was an "accident" and he "didn't mean to hurt anyone with the car." Crooks's argument is

unavailing. Section 1026.5 authorizes an extension of commitment for a substantially dangerous person who has committed *any* felony, not merely a felony that the person *intended* to commit. Similarly, section 1026.5 does not condition a commitment extension on a showing that the person presently harbors (or in the past has harbored) a specific mental state to inflict physical harm on others. Rather, it simply states that a person's commitment may be extended if he or she "by reason of a mental, defect, or disorder represents a substantial danger of physical harm to others." (§ 1026.5, subd. (b)(1).) We decline to impose an implied mental intent requirement, where none appears in the express statutory language. (Code Civ. Proc., § 1858; *Stirling v. Brown* (2018) 18 Cal.App.5th 1144, 1156 [" ' "It is . . . against all settled rules of statutory construction that courts should write into a statute by implication express requirements which the Legislature itself has not seen fit to place in the statute." ' "].)

Finally, Crooks contends that the jury's verdict amounts to a finding that *all* people who suffer from mental illness are inherently dangerous. This argument has no merit. The prosecution's witnesses directed their testimony to Crooks's individualized condition and based their testimony on their personal interactions with Crooks. Further, they did not testify that Crooks represents a substantial danger due solely to his mental illnesses. Rather, they presented testimony that, taken collectively, can be summed up as follows: Outside a supervised setting, Crooks's failure to acknowledge his severe mental illnesses likely would prevent him from taking necessary medication. That, in turn, would give rise to unpredictable, impulsive, and dangerous behavior as it did when, prior to his commitment, he refused medication, experienced a paranoid delusion, attempted suicide,

and took the life of another person as a result. It was reasonable for the jury to infer from such evidence that Crooks represents a substantial danger of physical harm to others and has serious difficulty controlling his dangerous behavior.

Construing the evidence in the light most favorable to the extended commitment order below, we conclude that substantial evidence supported the jury's finding that Crooks satisfied the criteria set forth in section 1026.5, subdivision (b)(1).

DISPOSITION

The order is affirmed.

HALLER, Acting P. J.

WE CONCUR:

O'ROURKE, J.

IRION, J.